

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MAGNUS N. NILSSON,
LARS OHLSSON, MAGDALENA CHRISTIANSSON,
KRISTER HANSSON and JAN ERICSSON

Application 09/964,838

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on February 8, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that a Reply Brief was filed on November 20, 2007, in response to the Examiner's

Answer mailed September 20, 2007. However, there is no indication in the record regarding whether or not the examiner has considered the Reply Brief. Section 41.43 of the Code of Federal Regulations (2007) states:

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

In addition, the statement of the § 103(a) rejections located on pages 3-13 of the September 20, 2007 Examiner's Answer under the heading "Grounds of Rejection" appears to include claims which were cancelled pursuant to the Amendment filed November 14, 2006. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for written notification to appellants regarding consideration of the Reply Brief filed November 20, 2007;
- 2) for submission of a PTOL-90 which clarifies the "Grounds of Rejection" by removing any reference to previously cancelled claims; and

3) for such further action as may be appropriate.

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